

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 4, 2002
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that Consent Items #43 [Business Development Services with SBTDC] and #45 [White Optical Property] be removed from the agenda. Also, she pulled Consent Agenda Item #12 [Asphalt Plant Standards] and distributed handouts for Consent Items #42 [Walltown Children's Theatre] and #46 [Phoenix Crossing].

There were no priority items from the City Attorney.

City Clerk D. Ann Gray informed Council that a valid protest petition was filed against GBA Item #39 [ZONING AMENDMENT CASE: PO1-72].

Council Member Best recognized boy scouts from Troop 461.

Members of Boy Scout Troop 461 announced there would be a 2002 Scouting Food Drive on March 9th.

Council Member Edwards requested that an item be added to the agenda to excuse her absences since she will be out on medical leave beginning March 11th.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cheek to add an item to the agenda [Resolution to Excuse the Absence of Council Member Edwards] was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Council Member Stith announced that there would be a Town Hall Meeting on Wednesday, March 13 at 7:00 p.m. in the Council Chambers with the local Durham delegation to discuss the impact of budget cuts on the City of Durham.

Council Member Cole-McFadden thanked staff for their involvement with the New York Firefighters who visited the City of Durham.

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Council Member Clement thanked residents of Cheek Road Apartments, Police Department and the Durham Branch NAACP for a constructive session on Saturday at Greater Joy Baptist Church concerning the police raid.

Mayor Pro Tempore Cheek announced his attendance at the National Consortium for Specialized Secondary Schools in Math, Science and Technology on March 1 hosted by the NC School of Science and Mathematics.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items 12, 14, 20, 21, 22, 24, 33 and 34 were pulled. Also, Items 43 and 45 were removed from the agenda as noted by the manager earlier in the meeting.

MOTION by Council Member Clement seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: ATTENDANCE REPORTS FROM BOARDS, COMMITTEES AND COMMISSIONS

MOTION by Council Member Clement seconded by Council Member Stith to receive Attendance Reports from the following Boards, Committees and Commission was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Durham Cable TV Advisory Board
Citizens Advisory Committee
Durham Convention & Visitors Bureau Board of Directors
Durham Area Transit Authority
Durham Bicycle and Pedestrian Advisory Commission
Durham Board of Adjustment
Durham City-County Appearance Commission
Durham Civic Center Authority
Durham Housing Authority
Durham Open Space and Trails Commission
Durham Planning Commission
Environmental Affairs Board
Historic Preservation Commission
Housing Appeals Board
Human Relations Commission
M/WBE Advisory Committee
Passenger Vehicle For Hire Commission
Raleigh-Durham Airport Authority
Recreation Advisory Committee

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Durham Workforce Development Board
Multi- Jurisdictional Advisory Board

SUBJECT: STOP SIGN – AMBRIDGE STREET

MOTION by Council Member Clement seconded by Council Member Stith to adopt an ordinance authorizing the installation of a stop sign on Ambridge Street at East Club Boulevard, east corner was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance # 12514

SUBJECT: STOP SIGNS – HUNTINGTON RIDGE

MOTION by Council Member Clement seconded by Council Member Stith to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Caribou Crossing at Fayetteville Road, southwest corner,
Bobcat Court at Caribou Crossing, southeast corner, and
Panthers Run Drive at Caribou Crossing, southwest corner.

Ordinance # 12515

SUBJECT: SPEED LIMIT - OTIS STREET

MOTION by Council Member Clement seconded by Council Member Stith to adopt an ordinance authorizing a speed limit of 25 miles per hour on Otis Street from Pilot Street to Formosa Avenue was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance # 12516

**SUBJECT: STREET ACCEPTANCE - STONE HILL ESTATES (PHASE V) -
CROOKED CREEK (PHASE III) - AUDUBON PARK - INDEPENDENCE
PARK**

MOTION by Council Member Clement seconded by Council Member Stith to accept the following streets which have been built according to City of Durham standards was approved at

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7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Stone Hill Estates - Phase V

- 1) **Thornwood Lane** – from the centerline of Quartz Drive east thru the cul-de-sac (298’), and
- 2) **Diamond Court** – from the centerline of Thornwood Lane south thru the cul-de-sac (332’.)

Crooked Creek - Phase III

- 1) **Windcrest Road** – from the end of Phase II construction @ STA 19+60 east to the end of Phase III at previously maintained section (722’), and
- 2) **Windcourt Place** – from the centerline of Windcrest Road north thru the cul-de-sac (121’), and
- 3) **Crooked Creek Parkway** – from the end of existing construction @ STA 16+98.6 east to the centerline of Windcrest Road (417’), and
- 4) **Guilford Place** – from the centerline of Windcrest Road north thru the cul-de-sac (307’.)

Audubon Park

- 1) **Piperwood Court** – from STA 153+60 west then south to the end of construction @ STA 163+70 (1,010), and
- 2) **Weeping Beech Way** – from the centerline of Piperwood Court east thru the cul-de-sac (314’), and
- 3) **Wood Duck Court** – from the centerline of Piperwood Court east thru the cul-de-sac (205’), and
- 4) **Whisperwood Drive** – from the centerline of Solitude Way north then west thru the cul-de-sac (748’.)

Independence Park

- 1) **Patrick Henry Drive** – from the centerline of Carver Street north to the centerline of William Penn Plaza (1,097’.)

SUBJECT: SETTING PUBLIC HEARING FOR THE CONFIRMATION OF ASSESSMENT ROLLS

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MOTION by Council Member Clement seconded by Council Member Stith to adopt resolutions setting public hearings for March 18, 2002, for the following assessment rolls was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Curb, Gutter & Paving On Crosswind Avenue - From Chapel Hill Road To Hickman Avenue

Curb, Gutter & Paving On Windcrest Road - From Barbee Road To West Property Line Of Tax Map 536-5-1

Water & Sewer Laterals On Windcrest Road - From Barbee Road To West Property Line Of Tax Map 536-5-1

Sewer Main On Edenton Lane - From Woodberry Road To New Bern Place

SUBJECT: FISCAL YEAR 2001-2002 BUDGET ORDINANCE AMENDMENT #9 – CARRYOVER ITEMS

MOTION by Council Member Clement seconded by Council Member Stith to adopt an ordinance amending the FY 2001-02 City of Durham Budget Ordinance by an increase of \$1,854,904.00 from \$262,926,428.70 to \$264,781,332.70, the same being Ordinance 12336, concerning carryovers from FY 2000-01 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12517

SUBJECT: HISTORIC PRESERVATION COMMISSION - NOMINATION

MOTION by Council Member Clement seconded by Council Member Stith to appoint Diane L. Oxley to fill one (1) vacancy on the Historic Preservation Commission for a Realtor/ Developer/ Builder. The term will expire September 1, 2004 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN APPROVAL - WEST POINT VILLAGE

MOTION by Council Member Clement seconded by Council Member Stith to approve a Major Site Plan for West Point Village, as submitted by Haden Stanziale, for a 84,026 square foot shopping center and a 10,465 square foot day care facility on a 10.93 acre tract zoned SC(D), OI-2(D) and Eno-B. The property is located on the northeast corner of Roxboro Road and Infinity Road. (Tax Map 804-3-3, 804-8-13,11A, 12A, 17; City Atlas Page 7 Grid C-2) was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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SUBJECT: MAJOR SITE PLAN APPROVAL - DUKE CIEAS/DIVINITY SCHOOL

MOTION by Council Member Clement seconded by Council Member Stith to approve a Major Site Plan for Duke University, as submitted by the John R. McAdams Company, for a 320,000 sq. ft. new classroom building and a 45,500 sq. ft. addition to the existing Divinity School on a tract totaling 8.35 acres zoned R-10 Residential. The property is located at the intersection of Science Drive and Research Drive (tax reference 106-01-001-050; PIN 0811-11-66-2281; City Atlas Page 22, Grid D-3) was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: PROCESS FOR APPROVAL AND IMPLEMENTATION OF REGULATORY CHANGES

MOTION by Council Member Clement seconded by Council Member Stith to set a public hearing for March 18, 2002 on a zoning ordinance text amendment, initiated by the City of Durham to extend the period of site plan validity in cases where a development is under construction (TC 128-02) was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: HUCKLEBERRY RESERVOIR IMPROVEMENTS – ENVIRONMENTAL ENGINEERING AND TECHNOLOGY, INC. - WILLIAMS WATER TREATMENT PLANT

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with Environmental Engineering and Technology, Inc. in the amount of \$148,854, for professional engineering services for the Huckleberry Reservoir Improvements and evaluation of the Williams Water Treatment Plant terminal reservoir; and

To authorize the City Manager to modify the contract provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: PROPOSED SALES AND SOLICITATION ORDINANCE

This item, regarding the Proposed Sales and Solicitation Ordinance, has been removed from the agenda and continued to the March 7, 2002 Work Session.

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SUBJECT: BIDS – SEMI-AUTOMATED SIDE LOADING REFUSE COLLECTION VEHICLES - VOLVO AND GMC TRUCK CENTER OF CAROLINA

MOTION by Council Member Clement seconded by Council Member Stith to accept the bid from Volvo and GMC Truck Center of Carolina, in the amount of \$328,276.00 for providing the City with two Semi-Automated Side Loading Refuse Collection Vehicles; and

To authorize the City Manager to enter into a contract with Volvo and GMC Truck Center of Carolina, in the amount of \$328,276.00 for providing the City with two Semi-Automated Side Loading Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: URBAN FAMILY INSTITUTE KIDS' HOUSE GRANT - WEED AND SEED SAFE HAVEN INITIATIVE

MOTION by Council Member Clement seconded by Council Member Stith to adopt a grant project ordinance for FY 2001-2002, Urban Family Institute Kids' House Program for the Weed and Seed Safe Haven Initiative. The total cost of the project is \$5,000, the amount of the sub grant was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12518

SUBJECT: PURCHASE OF MOBILE DATA COMPUTERS - UNIFORM PATROL BUREAU

MOTION by Council Member Clement seconded by Council Member Stith to authorize the purchase of ten (10) Mobile Data Computers (MDC) using Federal Asset Forfeiture Funds in an amount not to exceed \$35,000 for the use in the Uniform Patrol Bureau was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: REIMBURSEMENT OF COSTS INCURRED FOR LAW ENFORCEMENT ASSISTANCE IN CHAPEL HILL - TOWN OF CHAPEL HILL - HALLOWEEN

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MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract for reimbursement of costs incurred for law enforcement assistance in Chapel Hill; and

To approve the “Grant Project Ordinance for The City of Durham and Town of Chapel Hill for Temporary Law Enforcement Assistance during Halloween” was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance # 12519

SUBJECT: REIMBURSEMENT OF COSTS INCURRED FOR LAW ENFORCEMENT ASSISTANCE AT RDU [RALEIGH-DURHAM INTERNATIONAL AIRPORT] – SECURITY SERVICES INITIATIVE

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract for reimbursement of costs incurred for law enforcement assistance at Raleigh-Durham International Airport; and

To approve the “Grant Project Ordinance for The City of Durham and Raleigh-Durham International Airport Security Services Initiative” was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance # 12520

SUBJECT: PROPOSED ACQUISITION FOR MARTIN LUTHER KING, JR. PARKWAY - LEE RAY BERGMAN - 3603 MOSSDALE AVENUE

MOTION by Council Member Clement seconded by Council Member Stith to approve the acquisition of the property of Lee Ray Bergman, land and improvements, located at 3603 Mossdale Avenue, Tax Map 261-07-007, for \$165,000 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ACQUISITION FOR THE FUTURE EXPANSION OF LAKE MICHIE - WILKINS ROAD - ROBERT L. WILKINSON AND ELIZABETH L. WILKINSON

MOTION by Council Member Clement seconded by Council Member Stith to approve the acquisition for \$45,000 of approximately 1.92 acres of land located off Wilkins Road, Tax Map 935-01-017, OIN 0838-04-94-7088, property of Robert L. Wilkinson and wife, Elizabeth L. Wilkinson was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith.
Noes: None. Absent: None.

**SUBJECT: RAILROAD CROSSING IMPROVEMENT FOR RAMSEUR STREET –
NCDOT [NORTH CAROLINA DEPARTMENT OF TRANSPORTATION]**

MOTION by Council Member Clement seconded by Council Member Stith to approve a resolution authorizing the City Manager to enter into a municipal agreement with NCDOT for the design, installation, and maintenance of railroad crossing warning devices at Ramseur Street; and

To authorize the expenditure of \$12,000 from the Federal and State Match Capital Projects fund account for the City's share of the project was approved at 7:26 p.m. by the following vote:
Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution # 8838

**SUBJECT: I-40 CONGESTION MANAGEMENT STUDY - PARSONS,
BRINCKERHOFF, QUADE, & DOUGLAS**

A presentation was received from Parsons, Brinckerhoff, Quade, & Douglas regarding the I-40 Congestion Management Study and High Occupancy Vehicle Lanes at the February 21, 2002 Work Session.

SUBJECT: POLICE INITIATIVE - NEIGHBORHOOD SAFETY INITIATIVE

A report was received at the February 21, 2002 Work Session regarding the neighborhood safety initiative.

SUBJECT: CHARLES S. BOSTIC - CITIZEN'S MATTERS

Comments were received from Charles S. Bostic at the February 21, 2002 Work Session.

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: AMENDMENT TO THE ZONING ORDINANCE TO MODIFY ASPHALT
PLANT STANDARDS**

To approve the amendment to the Durham Zoning Ordinance to provide new Supplementary Standards [Ordinance Section 7] for asphalt plants.

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Dick Hails, Assistant City/County Planning Director, briefed Council on the staff report noting that a public hearing was held September 2001 and at that time, this item was referred back to the administration for further discussion between parties involved.

Julius Bartell, of 4911 Denfield Street, spoke in opposition to building another asphalt plant in the area.

Steven Matherly, of 2022 W. Club Boulevard, thanked the City Council for their input on this item.

John Schelp, 1022 Rosehill Street & representing the NAACP, spoke in opposition to this item.

MOTION by Council Member Clement seconded by Council Member Stith to approve the amendment to the Durham Zoning Ordinance to provide new Supplementary Standards [Ordinance Section 7] for asphalt plants **FAILED** at 7:35 p.m. by the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

SUBJECT: EXTENSION OF URBAN GROWTH BOUNDARY - NEAL MIDDLE SCHOOL - BAPTIST ROAD - SANTEE ROAD - BOARD OF THE DURHAM COUNTY COMMISSIONERS - WAKE FOREST HIGHWAY

MOTION by Mayor Bell seconded by Council Member Stith to receive a request from the Chairman of the Board of the Durham County Commissioners to extend the Urban Growth Boundary in eastern Durham County in order to facilitate the extension of municipal water service to Baptist Road, Santee Road, and Neal Middle School; and

To direct the City Manager to prepare an amendment to the Urban Growth Boundary in an area in the vicinity of the intersection of Wake Forest Highway and Baptist Road was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SUBRECIPIENT AGREEMENT WITH THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL (UNC-CH) - TECHNICAL ASSISTANCE - NEIGHBORHOOD CONSTRUCTION COMPANY

To authorize the City Manager to execute a Subrecipient Agreement, in an amount not to exceed \$64,000 in Community Development Block Grant funds, with the University of North Carolina at Chapel Hill for technical assistance to organize a Neighborhood Construction Company.

Council Member Best asked the administration if Neighborhood Construction Company is a non-profit construction company and if they would be able to contract with other entities besides the City of Durham.

Charlene Montford, Housing & Community Development Director, replied yes.

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Mayor Bell requested the administration to provide Council with updates on this contract.

Charlene Montford, Housing & Community Development Director, noted staff would provide Council with quarterly reports.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to authorize the City Manager to execute a Subrecipient Agreement, in an amount not to exceed \$64,000 in Community Development Block Grant funds, with the University of North Carolina at Chapel Hill for technical assistance to organize a Neighborhood Construction Company was approved at 7:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: HUD GRANT: NCLHR 117-98 LEAD-BASED PAINT TRAINING - GREENVILLE TECHNICAL COLLEGE

To authorize the City Manager to execute a contract with Greenville Technical College for lead-based paint training with a maximum expenditure not to exceed \$26,800 from Lead Hazard Control Grant funds, and to modify the contract before execution, provided the modifications are consistent with the general intent of the version of the contract approved by City Council and with Lead Hazard Control Grant requirements as published by HUD.

Council Member Best asked the administration if the 70 individuals would be City employees or contractors.

Charlene Montford, Housing & Community Development Director, noted primarily contractors; however, the program manager for the lead-based program will be attending the training session too.

Council Member Best expressed concern about individuals leaving after they are trained.

City Manager Conner noted you would have 70 individuals who could be a pool to assist with lead abatement in the future since the City does not have not enough individuals certified in this area.

Council Member Edwards asked staff what is the process for soliciting individuals to participate in the training.

David Stark, of the Housing Department, noted in terms of the grant, the City would have to include several organizations--TROSA, the Hispanic community and existing contractors.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, expressed concern about TROSA knocking out other competitors.

David Starks, of the Housing Department, stated training is open to anyone.

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Mayor Bell asked the administration about the reporting requirement.

Charlene Montford, Housing & Community Development Director, noted EPA monitors the program.

As it relates to all CDBG funding, City Manager Conner asked staff if they have to provide an annual report to HUD on how the funds were spent and if the goal was accomplished.

Charlene Montford replied yes.

Mayor Bell requested the administration to provide Council with reports on how the funds are being spent.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Greenville Technical College for lead-based paint training with a maximum expenditure not to exceed \$26,800 from Lead Hazard Control Grant funds, and to modify the contract before execution, provided the modifications are consistent with the general intent of the version of the contract approved by City Council and with Lead Hazard Control Grant requirements as published by HUD was approved at 7:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden, Edwards and Stith. Noes: Council Member Best. Absent: None.

SUBJECT: DURHAM AFFORDABLE HOUSING COALITION FY 2001-02 CDBG SUBRECIPIENT AGREEMENT

Mayor Bell asked the administration to provide Council with status reports on this contract.

MOTION by Mayor Bell seconded by Mayor Pro Tempore Cheek to authorize the City Manager to execute a CDBG Subrecipient Agreement with the Durham Affordable Housing Coalition, Inc. for fiscal year 2001-2002 in the amount of \$45,000 was approved at 7:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: C.M. HERNDON PARK - LAPPAS + HAVENER PA, INC. - DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTATION, AND CONSTRUCTION ADMINISTRATION

To authorize the Manager to enter into a contract with Lappas + Havener PA, Inc. for Design Development, Construction Documentation, and Construction Administration for the C.M. Herndon Park for the Sum of one hundred and sixty-five thousand and two-hundred dollars (\$165,200.00) plus a ten thousand dollar (\$10,000.00) contingency.

To authorize the City Manager to modify the contract provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

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City Manager Conner commented on the opportunity the City has to make a proposal to USA Baseball who is interested in moving their headquarters to Durham and also looking for a facility to house programs they provide. Also, she asked staff if the contract for \$165,000 would also include any type of proposal or design that the City may want to incorporate as a part of the proposal.

Johnny Ford, Parks & Recreation Director, noted that staff would be happy to go back and talk to the donors of the park about the possible design incorporating some of USA Baseball possibilities for a facility.

City Manager Conner asked staff is the \$165,000 for the entire development of the park or for a certain portion.

Johnny Ford, Parks & Recreation Director, noted it's 25 acres, a \$2 million project.

City Manager Conner asked staff will this require additional funding from the City to pay for this design in order for the City to submit a proposal.

Johnny Ford, replied yes.

Mayor Bell noted Council would need to have more discussion on this as staff proceeds relative to USA Baseball and with the schools.

Johnny Ford commented on the school's plan to buy 60 acres of land and noted the City will keep conversations open with the school system.

City Manager Conner noted she received a letter last week from the schools requesting the City to go into joint planning.

Thad Howard, a resident of Coach Terrace, asked if this is the same property along the American Tobacco Trail. Also, he spoke in support of trails in the area not being replaced with a baseball field.

Johnny Ford replied yes and noted during the design phase, the City would take his concerns into consideration.

MOTION by Mayor Bell seconded by Mayor Pro Tempore Cheek to authorize the Manager to enter into a contract with Lappas + Havener PA, Inc. for Design Development, Construction Documentation, and Construction Administration for the C.M. Herndon Park for the sum of one hundred and sixty-five thousand and two-hundred dollars (\$165,200.00) plus a ten thousand dollar (\$10,000.00) contingency; and

To authorize the City Manager to modify the contract provided the modifications do not increase the dollar amount of the contract and are consistent was approved at 8:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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SUBJECT: PASSENGER VEHICLE FOR HIRE ORDINANCE – SAFETY SHIELD

To receive a request to amend Section 22-121(e) of the Passenger Vehicle for Hire Ordinance.

Mark Ahrendsen, Transportation Manager, briefed Council on this item commenting on the amendment.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to receive and deny a request to amend Section 22-121(e) of the Passenger Vehicle for Hire Ordinance was approved at 8:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: WEST CLUB BOULEVARD TRAFFIC CALMING STUDY

To receive the West Club Boulevard Traffic Calming Study.

To direct the City Manager to proceed with the implementation of Phase I (Oval Park Area). Subsequent phases may be implemented as funding becomes available.

Dean Michaels, of 2500 Indian Trail, spoke in support of this item.

Erick Wolfe, of 1103 Oakland Avenue, spoke in opposition to Phase I due to safety hazard concerns and suggested a neckout.

Mark Ahrendsen, Transportation Manager, made comments on the process, traffic calming methods and noted it was the consensus of the community to support the first phase for a provision of a median at the Oval Park area.

Mayor Bell asked the administration if this alternative is safe.

Mark Ahrendsen, Transportation Manager, noted yes.

Council Member Best asked staff if speed bumps were considered.

Mark Ahrendsen, Transportation Manager, noted yes; however, due to the volume of traffic -- medians and neckdowns would be better suited as a traffic-calming tool.

Council Member Best asked a representative from the neighborhood if losing on-street parking in the area would be a problem.

Tom Miller, a representative of the neighborhood association, noted this is a trade off the neighborhood is willing to accept in order to get the traffic calming package.

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Mayor Pro Tempore Cheek asked if the speed limit would change.

Mark Ahrendsen replied no.

City Manager Conner informed Council that funding for this project would come out of the traffic calming funds and was not budgeted this year because of the state revenue issue. The manager noted the City is considering targeting traffic calming monies, this project will probably not be completed in this fiscal year and the City is still working on the list of priorities of projects.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to receive the West Club Boulevard Traffic Calming Study; and

To direct the City Manager to proceed with the implementation of Phase I (Oval Park Area). Subsequent phases may be implemented as funding becomes available was approved at 8:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACT FOR BUSINESS DEVELOPMENT SERVICES CONTRACT WITH SBTDC - UNIVERSITY OF NORTH CAROLINA - NC SMALL BUSINESS TECHNOLOGY DEVELOPMENT CENTER

To authorize the City Manager to execute the agreement with the University of North Carolina and the NC Small Business Technology Development Center, for business development service, in the form authorized by the City Council on December 3, 2001, with the deletion of "and reasonable attorneys' fees from Section 10.

To authorize the City Manager to modify the contract provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

NOTE: At the request of the City Manager, this item was removed from the agenda.

SUBJECT: WHITE OPTICAL PROPERTY - 413 ASHTON PLACE - ROBERT C. WHITE - MULTI-MODAL TRANSPORTATION CENTER

To authorize the City Manager to exercise the option to purchase the White Optical Property, located at 413 Ashton Place, in the County of Durham, Durham, North Carolina, Tax Map 039-04-004, PIN 0821-12-77-7742, Tax Map 039-04-004, Pin 0821-12-77-8340 from Robert C. White, for \$490,000 for the Multi-Modal Transportation Center.

NOTE: At the request of the City Manager, this item was removed from the agenda.

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[GENERAL BUSINESS AGENDA – OTHER MATTERS]

SUBJECT: PROPOSED INTERIM URBAN GROWTH AREA (UGA) AMENDMENTS

To receive a presentation on UGA amendments.

To approve the Proposed Policy on Urban Growth Area Expansion dated February 1, 2002.

Mayor Bell asked staff if this is a land use issue or an issue about the extension of water and sewer.

Assistant Planning Director Dick Hails noted as long as there's not an effort to put utilities in the areas where they may not be appropriate such as critical and environmental areas. He noted how soon does the City want to extend utilities out in the area outside of the current urban growth boundary and the general location are the benefits to concentrating those extensions in certain parts and moving those areas. Also, he noted the areas involved are not gigantic and do not go for miles out in all directions but those are certain issues of land.

Mayor Bell asked staff how does it relate to the status of the present land use plan.

Assistant Planning Director Dick Hails made comments on the comprehensive plan update noting it is a process that staff will be going through in the next 12 to 18 months to study different aspects relating to infrastructure and environmental areas and could come up with different strategies rather than what is in front of Council at present.

Mayor Bell asked staff what type of update would be considered in the comprehensive plan.

Assistant Planning Director Dick Hails noted staff would look at all areas between the current urban growth boundary, the critical areas and all parts of the County particularly looking at the different ramifications of extending utilities to those areas--environmentally, land use and efficiencies of commuting facilities and services.

Relative to looking at this particular area, Mayor Bell asked staff how long will it take for staff to come back with a recommendation as to how it should be updated.

Assistant Planning Director Dick Hails noted within the next year and urged Council to be cautious about taking a single piece out of the proposed new comprehensive plan and bringing it forth by itself.

Mayor Bell asked staff in looking at the current comprehensive plan and the land use for this particular area, how long would it take for staff to come back with a recommendation to be ready for public hearings and meetings.

Assistant Planning Director Dick Hails noted 9 to 12 months. Also, he noted if it was a technical review only by itself, it would take 6 months.

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Mayor Bell asked staff if the Public Works Committee had any problems with the recommendations listed in the criteria.

Keith Luck, of the City/County Planning Department, noted the Public Works Committee did not get into the discussion of the criteria. However, when it came back to Council, it had been through the Planning Commission and the Joint City/County Planning Committee for a recommendation and they had problems with the idea of adopting the policy, not with the individual elements of the criteria.

Mayor Bell asked staff would the criteria change, if they revisited the update to the land use plan.

Keith Luck, of the City/County Planning Department, noted it would be a starting point for most of the evaluation of the entire urban growth area.

The Mayor asked staff if the review by the Joint City/County Planning Committee and the Planning Commission were two separate meetings and were heard on the same date (June 13).

Keith Luck, of the City/County Planning Department, replied yes and noted that the Planning Commission heard this item on the previous evening [June 12], but would verify the dates of these meetings.

Attorney Jack Markham, representing John and June Foushee, noted that a portion of the property on the west side of Farrington Road was included in the UGA of the City of Durham, but the Foushee property on the east side was excluded. He made comments about the water & sewer lines running between the two half's of the Foushee property, the memo from the Planning Department recommending that the Foushee property be included in the UGA dated April 4, 2001 and raised concern regarding the process that has taken two years to get a response. Attorney Markham urged Council to not make the Foushees wait another two years to adopt the criteria and to allow the property to be included in the UGA.

John Foushee, of 1214 Manor Drive [Chapel Hill], asked Council to allow him to use the sewer plant.

June Foushee, of P. O. Box 2 [Chapel Hill], noted the farm qualified under the old standards and expressed a concern about waiting for the new standards. She urged Council to put their farm in the UGA.

James Kerr, representing IUKA Development Corporation and of 3706 Suffolk Street, requested Council to place its property on Scott King Road into the Urban Growth Boundary. He requested that there be no further delay concerning this matter. Also, he commented on staff's recommendation to include this property into the UGA.

Attorney Robert King, representing IUKA and of 313 Wayne Circle, noted this a process that has been going on for years requesting that the Scott King Road property be included in the UGA. He made comments regarding the April 4, 2001 memo from the Planning Department mentioning that the Foushee and Kerr properties had met all the criteria for inclusion within the UGA and his meeting with Dick Hails and Keith Luck on last week noting there was nothing

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new in regards to any additional criteria that may be added on, or any more concerns that would take the Scott King Road property out of consideration. He urged Council to consider his request to add the Scott King Road property into the UGA.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, expressed health, affordable housing and segregated school concerns concerning this item.

Council Member Stith asked the administration if these two cases have been evaluated according to the criteria outlined in the memo.

Assistant Planning Director Dick Hails noted generally that's correct. He noted individuals are citing a recommendation made to the City Council when the public hearing was held a year and a half ago and at that time staff was asked to look at the entire urban growth boundary and staff's recommendation is that these two properties meet the criteria. The larger issue before Council is whether to consider any, several or larger number of properties that may fit that criteria and evaluate them on a case-by-case basis or whether to hold off for some period of time. Also, he made comments about a limited adjustment to the UGA when citizens from the Gorman Baptist Church appeared before the Council two years ago.

Council Member Stith raised a concern about the timing issue noting it may be another one to two years before the overall plan is developed. Also, he asked the administration if the City approved putting these properties in the UGA, would there be a requirement of concurrence by the Board of County Commissioners.

Assistant Planning Director Dick Hails noted there is no requirement but a policy of Council.

Mayor Pro Tempore Cheek spoke in support of adopting the criteria for application across the board on an interim basis until a complete analysis of the UGA in connection with the comprehensive plan review has been completed.

Council Member Cole-McFadden asked staff how many other citizens have come forward asking for the same request and the location of these properties.

Assistant Planning Director Dick Hails noted that staff receives inquiries once a month along east out NC98, south towards US70 and the south, southwest area of the Foushee and Kerr properties.

Council Member Best spoke in support of voting on each request separately and then vote on the policy regarding some of the options and criteria.

For clarification, Council Member Stith asked the administration where the Foushee and Kerr properties evaluated by the criteria that is before Council now and did the properties meet that criteria.

Assistant Planning Director Dick Hails replied yes.

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Mayor Bell asked staff what are the land use designations for these properties and are these properties outside the city limits.

Assistant Planning Director Dick Hails noted the adopted plan calls for rural densities—1-unit per acre or less. Also, he made comments about the UGB being modified outside the criteria areas. He noted these properties are outside of the city limits.

Mayor Bell asked staff if the Scott King Road property could be developed as 2 units per acres.

Assistant Planning Director Dick Hails made comments about the water and sewer. Also, he noted the cluster subdivision was utilized, you are allowed to create lots at half the minimum lot size if you set aside an equal amount of open space.

Several Council Members raised a concern about the process taking too long.

Mayor Bell expressed concern about waiting 18 to 24 months for a comprehensive land use plan update. He suggested that Council adopt the proposed criteria designated by the Public Works Committee for extending UGA and directed staff to come back with a comprehensive plan update within 3 months.

Relative to staff needing 12 months for the update, Assistant Planning Director Dick Hails indicated in looking at a comprehensive plan staff looks at the modification of land uses and strategy for extending utilities and urban services out beyond the current urban boundaries. He noted staff could focus on updating and reviewing land uses around Scott King Road and Farrington Road.

Mayor Bell noted that's what he is asking because Council has an obligation to the residents to make a decision on this item because it has been hanging too long.

Assistant Planning Director Dick Hails noted that staff could do an analysis on these two sites in a 3-month timeframe.

Mayor Bell noted that he would like to receive comments from the County Commissioners' on this piece rather than a concurrence.

Council held discussion on the criteria, comprehensive land use plan, and requests for expansion of UGA.

Mayor Pro Tempore Cheek spoke in support of Council considering other requests from citizens for expansion of UGA.

Council Member Edwards express concern about piecemeal issue because the land use plan has not been updated.

Mayor Bell requested staff to report back if these two cases meet the criteria at the next meeting.

City Manager Conner requested that staff report back in two cycles.

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For clarification, Assistant Planning Director Dick Hails noted these two properties meet the criteria.

A motion was made by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt the proposed criteria; to submit proposed criteria to the County Commissioners for comments; to direct the administration to examine the area [Kerr and Foushee properties] in question in order to provide information; and to provide Council with a land use plan for that area within 90 days.

Council Member Stith made a friendly amendment to approve these two cases before us since they meet the criteria.

Mayor Pro Tempore Cheek raised a concern about accepting this friendly amendment noting the governing body would determine whether the criteria had been met for these two properties and that would require a specific report from staff.

Council Member Stith made another friendly amendment requesting that the report on these two properties come back to Council in two cycles.

Mayor Pro Tempore Cheek accepted the friendly amendment.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt the following proposed criteria for the UGA expansion requests; and

To direct staff to submit proposed criteria to the County Commissioners for comments; and

To direct staff to examine the Foushee and Kerr Properties and provide Council with a report at the April 1, 2002 City Council Meeting on whether the properties meet the criteria for expansion for the UGA; and

To direct staff to provide a land use plan for these areas within 90 days was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Proposed Criteria

The Planning Department prepared the following draft criteria to address the Public Works Committee's request.

- A. An area proposed by a property owner to be included in the UGA will be considered to be generally compatible with Durham's long-range growth and development desires if it meets the following criteria:
 - 1. The area proposed for UGA expansion is contiguous to the present UGA. In general, non-contiguous UGA areas are considered to be an inefficient way to provide utility services.

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2. The area proposed for UGA expansion is not within one mile of the Falls Reservoir or Jordan Reservoir or in the drainage basin of Lake Michie or the Little River Reservoir. Land within one mile of the Falls of the Neuse and Jordan Reservoirs is defined in the Durham Zoning Ordinance as water supply watershed protection critical area. Land in the Lake Michie and Little River Reservoir watershed is considered to be sensitive to urban development. City policy is to not extend the UGA into these sensitive watershed protection areas.
 3. The area proposed for UGA expansion is on the Durham side of any annexation and utility service area boundary lines agreed to by Durham and other jurisdictions, such as Hillsborough, Chapel Hill, Morrisville, Cary and Raleigh.
 4. The City Department of Public Works determines that providing public sewer and water services to the area proposed for UGA expansion is technically feasible and can be accomplished without significant extension of utility service to areas outside the present UGA.
 5. The City Department of Public Works determines that providing public sewer and water services to the area proposed for UGA expansion will not result in any inordinate costs to the City associated with construction, operation or maintenance of utility infrastructure.
- B. Only requests initiated by the owner of the subject property will be considered through this policy. Staff may, at its discretion, add incidental specific parcels owned by other property owners if the addition of such parcels is closely related to the request by the initial property owner and is adjacent to or in immediate proximity of the parcel originally requested by the property owner.
- C. These UGA expansion criteria would become effective only upon concurrence by the Durham County Board of Commissioners.
- D. These UGA expansion criteria are interim in nature and will be reconsidered when the City and County consider adoption of an updated comprehensive land use and development plan within one to two years.

If the City Council and County Board of Commissioners adopt these criteria (assuming provision C. above is included), then it could be implemented in either of two ways. One option would be for each request for UGA expansion to be considered by both governing bodies on a case-by case basis, using the adopted criteria as a guide. A second option would be for the elected bodies to adopt the criteria for administrative implementation, with the individual requests being determined by the Directors of the Planning and Public Works Departments in accordance with the criteria.

**SUBJECT: CITY/COUNTY WATER AND SEWER BILLING AGREED UPON
PROCEDURES – COUNTY OF DURHAM - DIXON ODOM**

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To authorize the City Manager to enter into a joint contract with the County of Durham with Dixon Odom for the amount of \$134,900 for accounting services to apply agreed upon procedures for the City/County Water and Sewer Projects.

To authorize the City Manager to modify the contract provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

Finance Director Nav Gill made a presentation on this item stating the City and County have been working together for a year regarding sewer accounts that the City was billing on behalf of the County pursuant to the 1988 agreement. Also, he noted the County did not receive full amount of revenue due to billing mistakes since 1991. Mr. Gill noted the County approved an item on February 11th, made comments about the RFP and the contract with Dixon Odom whereby the City will pay half the cost of the audit.

It was indicated that the County managed this process.

Susan Fox-Kirk, of the County Finance Department, made comments regarding the RFP and noted that the County agreed to utilize the City's requirements and forms.

Council Member Cole-McFadden asked if the firm selected provide an equal opportunity for minority and women owned businesses to participate, was the process open and did any other firms solicit M/WBE firms to participate. Also, she asked staff what was the difference between the two proposals.

Jamie Addison, of EO/EA Office, noted the City did not have any M/WBEs to do data conversion and the process was open. Also, she noted it was one firm that did have a M/WBE that was participating with them in their proposal: Ernest & Young, LLP and they contracted with Cox, Gibbs and Thomas.

Susan Fox-Kirk, of the County Finance Department, made comments regarding the difference between the two proposals commenting on the estimated cost of \$539,000 provided by Ernest & Young of \$539,000 and \$269,800 provided by Dixon Odom.

Council Member Cole-McFadden made comments about the data conversion format and oversight for the project.

Susan Fox-Kirk, of the County Finance Department, noted in the negotiations, Dixon Odom agreed that the County and City would not pay for any services that the third party provider has done until the conversion is successful and has been tested. Also, she noted oversight would be provided by a program administrator from the City [Melvin Striblin] and County.

Council Member Cole-McFadden requested a meeting with Dixon Odom to discuss recruitment of employees. Also, she expressed concern with the firm of Dixon Odom and stated she would be voting against this item.

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Mayor Bell asked if the files for the Triangle Wastewater Treatment are on microfiche and would have to be converted.

Finance Director Nav Gill replied yes.

Melvin Striblin, of the Finance Department, noted that the actual portion for Phase II is for calendar year 2001 and the Technology Solutions Department would make a magnetic tape [electronic format] for Dixon Odom instead of a microfiche and would require data conversation.

Relative to Attachment 2 of the Dixon Odom proposal, Mayor Bell made comments about the data conversion fee not being mentioned in the proposal for Phase Two.

Mayor Bell asked staff how much of \$150,000 in data conversation outlined in Phase One will be allocated for phase one vs. phase two.

Melvin Striblin, of the Finance Department, replied \$150,000 is all for Phase One. Also, he noted that Dixon Odom informed them that they had already included data conversation in their fee for Phase Two.

Mayor Bell raised a concern noting the contract does not spell out what Dixon Odom will be doing for \$150,000 in terms of data conversation.

Finance Director Nav Gill noted staff would make sure the requirement for data conversion would be spelled out in the contract before it is executed.

Relative to the Scope of Services (Attachment 1), Mayor Bell noted there is no indication for a start and end date for data conversion and requested this contract be referred back to the administration.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to refer this item back to the administration until the March 18, 2002 City Council Meeting to address data conversion and MWBE concerns was approved at 9:57 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: Mayor Pro Tempore Cheek. Absent: None.

MOTION by Council Member Best seconded by Council Member Stith to extend the meeting beyond 10:00 p.m. was approved at 9:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT EXTENSION - DURHAM BULLS ATHLETIC PARK
SEASONAL CLEANING - SARVIS ENTERPRISES**

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To authorize the City Manager to enter into an amendment of the contract with Sarvis Enterprises which extends the contract for two additional years of seasonal cleaning at the Durham Bulls Athletic Park, in the total amount of \$567,528 for the two additional years.

To authorize the City Manager to make changes to the contract such that the cost to the City does not increase and the obligations of the contractor are not lessened.

Council Member Cole-McFadden asked staff did this contract go out for bid.

Harmon Crutchfield, of Property & Facilities Management, replied no and made comments about the service provided by Sarvis Enterprises. Also, he noted that next time the contract expires, it will go out for bid.

Council Member Cole-McFadden expressed concern about the 2-year extension.

A motion was made by Council Member Clement seconded by Mayor Pro Tempore Cheek to approve the item as printed on the agenda.

Victoria Peterson, of P. O. Box 101, expressed concern why the City is continuing to fund Mr. Goodman's projects. Also, she requested information on where the company is located, raised a concern about what fiscal year is the money allocated for and noted she would like to have this item go out for bid.

Laura Gill, Acting Property & Facilities Manager, noted the facility is the property of the City of Durham, Sarvis Enterprises is located in Durham. Also, she referred to staff's memo noting that seasons cross over fiscal years.

Julius Bartell, of 4911 Denfield Street, asked Council to raise the price of tickets to 50 cents to pay for cleaning of the ballpark.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, expressed concern that the City is not re-bidding this item.

Council Member Edwards expressed concern about not re-bidding the contract.

Council Member Stith asked staff about the timeline for re-bidding and is there a provision in the contract for a month-to-month clause.

Laura Gill, Interim Property & Facilities Manager, noted the season starts April 9th and there would not be enough time to re-bid this project. Also, she noted that staff would review the contract to see if there is a month-to-month clause.

Mayor Bell noted the process should be inclusive.

City Manager Conner noted in order to have cleaning service at DBAP, the contract would have to be extended through this baseball season.

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Mayor Bell spoke in support of sending this item back to staff to determine how long Council could extend the contract.

SUBSTITUTE MOTION by Council Member Stith seconded by Council Member Cole-McFadden to refer this item back to the administration until the March 18, 2002 City Council Meeting was approved at 10:14 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: Mayor Pro Tempore Cheek. Absent: None.

SUBJECT: LEASE AGREEMENT FOR THE FINAL SEGMENT (PHASE E) OF THE AMERICAN TOBACCO TRAIL - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)

To approve the lease agreement between the City of Durham and the North Carolina Department of Transportation for the final segment of the American Tobacco Trail; and

To authorize the City Manager to execute the lease agreement.

Interim Property & Facilities Manager Laura Gill made comments about the final segment of the American Tobacco Trail.

Council Member Cole-McFadden asked staff what is the status of resolving problems relative to Phases C & D of this project.

Lisa Smith, of Property & Facilities Management, noted that staff is working with R & G Construction Company to get an approved substitution of subcontractors for this project and has submitted an informal letter to the contractor notifying that they have not adhered to the M/WBE ordinance.

City Manager Conner noted the contractor sent a letter to the City disputing the letter sent to him concerning the substitution of subcontractors.

Julius Bartell, of 4911 Denfield Street, urged Council to put this trail on the back burner until a later date when Durham, Durham County and the state, are in a better financial shape.

Anita Keith-Foust, of 323 W. Trinity Avenue, expressed concern about minority participation and urged Council to not proceed with this project until the facts are received.

For clarification, City Manager Conner noted this item is concerning a lease agreement between City and NCDOT. She also indicated that this has nothing to do with the construction contract or contractor completing work for the City.

Stan Howard, of 8 Coach Terrace, provided clarification on the nature of this request.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to approve the lease agreement between the City of Durham and the North Carolina Department of Transportation for the final segment of the American Tobacco Trail; and

To authorize the City Manager to execute the lease agreement was approved at 10:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: TELECOMMUNICATION RFP GROUP ACTIVITY SYNOPSIS AND RECOMMENDATIONS

To receive a report on the telecommunication request for proposal group activity synopsis and recommendations.

Steve Medlin, of the City/County Planning Department, briefed Council on this item noting that the RFP has been drafted and sent out for the areas of technology, tower applications, telecommunications sources including the master plan with a grid system and the anticipated total cost is \$200,000 to \$225,000.

Mayor Pro Tempore Cheek noted that he could not support the master plan with a grid system due to the cost outlined in the staff report of \$200,000 to \$250,000.

For clarification, Steve Medlin, of the City/County Planning Department, noted that the \$200,000 to \$250,000 is the overall cost. He noted the cost for the master plan with a grid system would be \$50,000 to \$60,000.

Steve Medlin, of the City/County Planning Department, noted that staff will report back in 60 days concerning the RFP.

City Manager Conner noted the moratorium adopted by Council expires in June.

Council Member Clement directed staff to bring back a report to Council at the May 6, 2002 City Council Meeting regarding the final disposition on the RFP.

Council held discussion on a comprehensive plan.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to receive a report on the telecommunication request for proposal group activity synopsis and recommendations; and

To direct the administration to report back to Council at the May 6, 2002 City Council Meeting for final disposition on the RFP was approved at 10:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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SUBJECT: WALLTOWN CHILDREN'S THEATRE – 1225 BERKELEY STRET

To adopt "an Ordinance Amending General Capital Improvement Project Ordinance, As Amended, the Same Being Ordinance #12479," that increases the "Culture and Recreation" subsection by \$60,000; and

To authorize the City Manager to write and execute an agreement between the City of Durham and The Walltown Children's Theatre, for an amount not to exceed \$125,000, provided that it is consistent with the description in the agenda attachment.

Interim Property & Facilities Management Director Laura Gill briefed Council on the staff report highlighting that the Theatre leases the property from St. James Baptist Church and would like to purchase the facility and the asking price of \$160,000 is contingent upon the appraised value. She noted due to the difficulty in qualifying this project as one eligible for community block grant funding, the City is recommending capital project funds be used for the grant. Also, she noted the project would be funded by the City taking pay as you go funds from the E. D. Mickle facility (\$65,000) and the other \$60,000 pay as you go funds would come from Fire Station #16.

Council Member Best asked the administration how could the City divert money from a center or project that meets CDBG Annual Action Plan criteria to something that did not meet the criteria.

Interim Property & Facilities Management Director Laura Gill noted the City is taking CDBG funds to a project that has been deemed eligible that will serve the low to moderate income population. Also, she noted the pay as you go component from the E.D. Mickle Center would be used from the Walltown Children's Theatre. Also, she noted the pay as you go funds are not federal government money.

Council Member Best made comments about the debt service.

City Manager Conner briefed Council noting it is not unusual for a fire station to be a bonded item. Also, she stated the City was unable to find another project that would be eligible depending on the timing of the fire station. Also, she noted the City will find a project that is eligible, carry those funds over and put the fire station back in next year's budget for pay as go and substitute another project for CDBG. At this point in the City's pay as you go funds, E.D. Mickle was the only project that was eligible.

Council Member Best asked staff who would be the owner of this property.

Laura Gill, Interim Property & Facilities Manager, noted the Walltown Children's Theatre. Also, she noted that the City would put together an agreement to ensure that the property is used for a public purpose and commented on a right of entry/possession in the agreement.

Council Member Edwards noted there should be a list outlining the type of services that should be offered at the Walltown Children's Theatre and how the success of the program would be measured.

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Laura Gill, Interim Property & Facilities Manager, noted it would be spelled out in the agreement.

Parks & Recreation Director Johnny Ford commented on programs that would be offered.

Council Member Stith asked staff why the program did not qualify.

Laura Gill, Interim Property & Facilities Manager, commented that the programming is offered to the community citywide and HUD indicated that it would be hard for the City to meet that requirement of least 51% of the population serving the low to moderate income.

Charlene Montford, Housing & Community Development Director, discussed two ways [slum & blight study and area benefit] the project can qualify for HUD eligibility. Also, she noted that HUD suggested that the City use the method of area benefit.

Discussion was held on the qualification of E.D. Mickle.

Mayor Pro Tempore Cheek expressed concern about the money but spoke in support of the program because it is important to the children in this area.

Council Member Cole-McFadden requested staff to include drug screening as a guideline that the Parks & Recreation operates under.

Council Member Best asked Mr. Joseph Henderson if he had update information regarding financial records/increased projections and asked why a bank or self-help would not be an affordable route than the City.

Joseph Henderson noted due to the sliding pay scale and location of the theatre--there is no way that they can offer the best education possible and pay for a loan.

Dave Shumannfang, of Self-Help, outlined reasons why Self-Help would not be able to make the loan in the full amount of the purchase price due to the credit standards and guidelines.

Council Member Best raised a concern regarding the City giving grants to private businesses and the theatre not meeting the CDBG criteria.

MOTION by Council Member Clement seconded by Council Member Stith to adopt "an Ordinance Amending General Capital Improvement Project Ordinance, As Amended, the Same Being Ordinance #12479," that increases the "Culture and Recreation" subsection by \$60,000; and

To authorize the City Manager to write and execute an agreement between the City of Durham and The Walltown Children's Theatre, for an amount not to exceed \$125,000, provided that it is consistent with the description in the agenda was approved at 11:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden, Edwards and Stith. Noes: Council Member Best. Absent: None.

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Ordinance #12521

SUBJECT: PHOENIX CROSSING - SELF HELP VENTURES FUND - FIRST UNION NATIONAL BANK

Nav Gill made a presentation on this item.

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a subordination agreement that will substitute Self Help Ventures Fund in place of First Union National Bank for an amount of \$1,950,000; and

To authorize the City Manager to modify the subordination agreement provided the modifications do not increase the dollar amount of the subordination agreement and are consistent with the general intent of the version approved by City Council was approved at 11:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: ZONING MATTER CASE: P01-59 - JIM BELL - 2.315 ACRES AT 3539 HILLSBOROUGH ROAD

Zoning Amendment Case: P01-59

Applicant: Jim Bell

Location: 2.315 acres at 3539 Hillsborough Road, PIN 0812-10-36-7822 (Tax Map 279, Block 2, Lot 6)

Request: Rezoning from CT (Commercial Trade District) and I-3 (Heavy Industrial District) to GC (D) (General Commercial District with Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of CT and I-3 and placing same in and establishing same as GC(D).

Zoning Committee Recommendation and Vote: Approval – (6-0)

Planning Department Recommendation: Approval

Dick Hails, Assistant Planning Director, briefed Council on the staff report noting the proposal is consistent with the plans for the area.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponent

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Attorney Jack Markham, representing the applicant, spoke in support of this item noting this is a down zoning, proposal is consistent with 2020 Comprehensive and draft of West-Northwest Durham plans and there is no existing transportation issues. He urged Council to approve this rezoning.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of CT and I-3 and placing same in and establishing same as GC(D) was approved at 11:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ZONING MATTER CASE: PO1-65 - GLENN FUTRELL, JLG CORPORATION - 34.3 ACRES ON THE WEST SIDE OF FAYETTEVILLE ROAD SOUTH OF MASSEY CHAPEL ROAD

Zoning Amendment Case: P01-65

Applicant: Glenn Futrell, JLG Corporation

Location: 34.3 acres on the west side of Fayetteville Road south of Massey Chapel Road, PIN 0717-01-49-5226, 0717-02-59-9234, 0717-02-69-5410 partial (Tax Map 529, Block 1, Lots 22A, 22B, 22G partial)

Request: Rezoning from RD (Rural District) to PDR-2.5; F/J-B (Planned Density Residential-2.5 units/acre; Watershed Protection Overlay)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as PDR-2.5; F/J-B.

Zoning Committee Recommendation and Vote: Tie – 3-3

Planning Department Recommendation: Approval

Dick Hails, Acting Planning Director, briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponent

Tony Tate, representing the applicant, spoke in support of this rezoning noting plans conform with all comprehensive plans and urged Council to approve this proposal.

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Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, raised a concern about executive housing vs. affordable housing urging the Planning Department and Council to take into consideration that developers are building homes that cost too much for people to afford.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as PDR-2.5; F/J-B was approved at 11:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE: P01-72 – R. L. HORVATH ASSOCIATES, INC.
- 5.719 ACRES AT 1510 LAWSON STREET, THE SOUTHEAST
CORNER AT THE INTERSECTION OF BACON STREET AND
LAWSON STREET**

Zoning Amendment Case: P01-72

Applicant: R. L. Horvath Associates, Inc.

Location: 5.719 acres at 1510 Lawson Street, the southeast corner at the intersection of Bacon Street and Lawson Street, PIN 0830-06-49-3397 (Tax Map 199, Block 4, Lot 1A)

Request: Rezoning from OI-2 (D) (General Office and Institutional District) to I-2 (Light Industrial District)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2(D) and placing same in and establishing same as I-2.

Zoning Committee Recommendation and Vote: Denial – (6-0)

Planning Department Recommendation: Approval

NOTE: Valid protest petition filed against this rezoning.

Dick Hails, Assistant Planning Director, briefed Council on the staff report.

Mayor Bell asked for clarification on the protest petition and required number of votes to approve this rezoning.

Dick Hails, Assistant Planning Director, noted the City Clerk informed Council of a valid protest petition and noted the required vote of Council would be six out of seven votes.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

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Proponent

Ron Horvath, representing the applicant, requested that this item be postponed for two weeks until he has an opportunity to talk with the neighbors regarding the protest petition.

Opponents

James Brown, representing the landowners, spoke in opposition to this request noting the neighborhood does not need industry in the area but educational institutions and urged Council to let the area remain 01-2.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, raised a concern with this item requesting Council to make a buffer provision to protect the neighborhood from noise.

Jimmy Lawton, of 1027 Plum Street, raised a concern about this rezoning because of safety for the children.

Yolanda Mitchell-Johnson, of 516 Bacon Street, spoke in opposition to this rezoning. She noted a facility that would offer community projects [soup kitchen, daycares, tutorial programs, rehabilitation, counseling] would be a positive influence.

Rebuttal

Ron Horvath, representing the applicant, made comments regarding the vacant building requesting that the building be utilized the way prior to the rezoning request of two years ago and spoke in support of the deferral allowing him the opportunity to compromise with the neighborhood.

Mayor Pro Tempore Cheek asked if the public hearing would be continued without any further advertising.

It was indicated yes.

MOTION by Council Member Clement seconded by Council Member Stith to continue the public hearing on this item without further advertising until the March 18, 2002 City Council Meeting was approved at 11:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[ITEM ADDED TO THE AGENDA]

SUBJECT: EXCUSING THE ABSENCES OF COUNCIL MEMBER TAMRA EDWARDS

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to adopt a "Resolution to Excuse the Absence of Council Member Edwards" was approved at 11:31 p.m.

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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #8839

There being no further business to come before the City Council, the meeting was adjourned at 11:31 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk